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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR,	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,293	01/22/2002	Yutaka Nakata	045237-0102	4769

22428 7590 09/11/2003

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

TSIDULKO, MARK

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,293

Applicant(s)

NAKATA, YUTAKA

Examiner

Mark Tsidulko

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

The submission of amendment filed on 6/30/03 is acknowledged. At this point claim 1 has been amended, claim 9 has been added and the remaining claims left unchanged. Thus, claims 1-9 are at issue in the instant application.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,527,425 in view of Conero et al. (US 4,680,977).

The scope of claims 1, 3 of the instant application is incorporated in the patented claim 6. As shown in claim 6 a lamp device for a vehicle has a light source, a reflector having a free curved (B-spline) surface, a convex lens having no prism wherein the light reflected by the reflector irradiate an external section in accordance with a target light distribution pattern.

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Patent ('425) discloses the instant claimed invention except for lens is formed in a convex shape in vertical and horizontal cross sections.

Conero et al. disclose the lens that is formed in a convex shape in vertical and horizontal cross sections (col.6, lines 29-37). It is understood that in this case light is evenly transmitted through the lens. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lens formed in a convex shape in vertical and horizontal cross sections in order to obtain the light evenly transmitted through the lens.

Claims 2, 4-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,527,425 and Conero et al. and further in view of Albou (US 6,123,440).

Referring to Claim 2 the Patent ('425) discloses the instant claimed invention except for reflector's vertical and horizontal cross sections are formed in hyperboloidal surface smaller than the lens.

Albou discloses (Fig.1) hyperbolic type reflector [102] smaller than the lens [103]. The reflector has internal and external focuses, the light source being placed in a region of the internal focus so that the latter forms a virtual light source in the region of the focus of the lens (Abstract).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the device of Nakata with hyperbolic type reflector as taught by Albou in order to obtain a virtual light source in the region of the focus of the lens.

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Claim 4 of the instant application is incorporated in the patented claim 6 of ('425). As shown in claim 6 a reflector has a B-spline surface.

Referring to Claims 5-8 the Patent ('425) discloses the instant claimed invention except for a torus curved surface is formed a front surface or/and a back surface of the lens.

Albou discloses (col.2, lines 26-33) a lens having a torus surface. This surface is provided in order to obtain a certain horizontal spread of the light beam (col.4, lines 1, 2). It is understood that the torus surface may formed on any (or both) surfaces of the lens.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the torus surface as taught by Albou for the lens of ('425) in order to obtain a certain horizontal spread of the light beam.

Allowable Subject Matter

Claim 9 is objected to as being dependent upon a rejected base claim 1, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art of record fails to show the lamp device having the reflection surface including a plurality of reflecting surfaces each having a free curving surface for providing a light distribution pattern.

Response to Arguments

Applicant's arguments filed on 7/07/03 have been fully considered but they are not persuasive.

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Applicant argue that Nakata and Albou do not disclose the lens that is structured such that it has a convex shape in both a vertical and horizontal cross sections.

In response, the Examiner is aware that these references fail to show this limitation, hence Conero et al (US 4,680,977) is used in a rejection to teach the use this type of the lens.

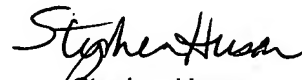
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (703)308-1326. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

M.T.
September 4, 2003


Stephen Husar
Primary Examiner